

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JEFFREY CHARLES MANN,

Plaintiff,

v.

LORIE DAVIS, et al.,

Defendants.

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Case No. 6:16-cv-1315-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON DEFENDANT WALKER**

Plaintiff Jeffrey Charles Mann, a Texas Department of Criminal Justice inmate, proceeding pro se, filed this civil rights lawsuit under 42 U.S.C. § 1983 alleging violations of his constitutional rights. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

Before the Court is Defendant Michael Walker's motion for summary judgment based on Plaintiff's failure to exhaust administrative remedies. Docket No. 171. On January 21, 2021, Judge Mitchell issued a Report and Recommendation recommending that the Court grant Defendant Walker's motion for summary judgment and dismiss Plaintiff's claims against him for failure to exhaust administrative remedies. Docket No. 195. A copy of this Report was sent to Plaintiff at his last known address on January 21, 2021, but no objections have been received. A letter properly placed in the United States mail is presumed to have reached its destination and been received by the addressee in the usual time. *Faciane v. Sun*

Life Assurance Co. of Canada, 931 F.3d 412, 420–21 & n.9 (5th Cir. 2019) (citing *United States v. Ekong*, 518 F.3d 285, 286–87 (5th Cir. 2007)).


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 195) as the findings of this Court. Defendant Walker’s motion for summary judgment (Docket No. 171) is **GRANTED** and Plaintiff’s claims against Dr. Walker are **DISMISSED WITHOUT PREJUDICE** for failure to exhaust administrative remedies. Further, Dr. Walker

is **DISMISSED** as a party to this lawsuit.

The dismissal of these claims and this Defendant shall have no effect upon the remaining claims and defendants in the lawsuit.

So **ORDERED** and **SIGNED** this **14th** day of **March, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE